

MONDAY, APRIL 17, 1989

THIRTY-FOURTH LEGISLATIVE DAY

The House met at 5:00 p.m. and was called to order by Mr. Speaker Murray.

The proceedings were opened with prayer by Rev. Bill Horner, Pleasant Hill Baptist Church, Orlinda, Tennessee.

Representative Gene Davidson led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 95

Representatives present were: Anderson, Armstrong, Bell, Bittle, Bivens, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

RULES SUSPENDED

Rep. Coffey moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 275 out of order, which motion prevailed.

House Joint Resolution No. 0275 -- Memorials, Sports -- Congratulates Oak Ridge Lady Wildcats on their outstanding 1988-1989 basketball season. by *Coffey.

On motion, the rules were suspended for the immediate consideration of the resolution.

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On motion of Rep. Coffey, the resolution was adopted.

A motion to reconsider was tabled.

RULES SUSPENDED

Rep. Coffey moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 276 out of order, which motion prevailed.

House Joint Resolution No. 0276 -- Memorials, Sports -- Congratulates Oak Ridge High School boys' basketball team on outstanding season. by *Coffey.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Coffey, the resolution was adopted.

A motion to reconsider was tabled.

REGULAR CALENDAR

House Bill No. 0683 -- Notary Public -- Allows an elected official to become a notary public by submitting application to the county legislative body of his county of residence or business location. Amends TCA, Title 8, Ch. 16.

Rep. Ussery moved that House Bill No. 683 be passed on third and final consideration.

Rep. Miller moved to amend as follows:

Amendment No. 1

Amend House Bill No. 683 by deleting Section 1 and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-16-101, is amended by designating the current language as subsection "(a)" and by adding the following new language, to be designated as subsection "(b)":

(b) Nothing contained within the provisions of Tennessee Code Annotated, Section 5-5-102(c)(2), or any other law, shall be construed to prohibit a member of a county legislative body from also serving as a notary public provided such member complies with the requirements established within this part.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Ussery moved that House Bill No. 683, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

*House Bill No. 0256 -- Motor Vehicles, Titling and Registration -- Provides for enforcement actions to deal with odometer fraud. Amends TCA, Title 4, Ch. 3, Pt. 20; Title 47, Ch. 18; Title 55, Chs. 2, 6.

Rep. Ridgeway moved that House Bill No. 256 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	98
Noes.	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C.

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(Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

A motion to reconsider was tabled.

House Bill No. 0895 -- Uniform Commercial Code -- Clarifies law concerning fixture filings in secured transactions. Amends TCA, Title 47, Ch. 9.

On motion, House Bill No. 895 was made to conform with Senate Bill No. 745.

On motion, Senate Bill No. 745, on same subject, was substituted for House Bill No. 895.

Rep. Purcell moved that Senate Bill No. 745 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Pereulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

House Bill No. 1017 -- Fire Prevention and Investigation -- Provides certain safety code determinations by state fire marshal supersede certain conflicting determinations by local officials. Amends TCA, Title 68, Ch. 18.

Rep. Purcell moved that House Bill No. 1017 be reset to the Calendar for Thursday, April 20, 1989, which motion prevailed.

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House Bill No. 1219 -- District Attorneys -- Revises compensation schedule for assistant district attorneys general. Amends TCA 8-7-201.

On motion, House Bill No. 1219 was made to conform with Senate Bill No. 653.

On motion, **Senate Bill No. 653**, on same subject, was substituted for House Bill No. 1219.

Rep. Purcell moved that Senate Bill No. 653 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	93
Noes.	4

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holt, Hubbard, Huskey, Jackson, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Naifeh, Napier, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 93.

Representatives voting no were: Gunnels, Holcomb, Moore (Shelby), Niceley -- 4.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from no to aye on Senate Bill No. 653 and have this statement entered in the Journal.

Rep. Jim Holcomb

REGULAR CALENDAR, CONTINUED

House Bill No. 0459 -- Insurance, Health, Accident -- Includes mammography coverage in certain insurance policies. Amends TCA, Title 56, Ch. 7.

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On motion, House Bill No. 459 was made to conform with Senate Bill No. 115.

On motion, Senate Bill No. 115, on same subject, was substituted for House Bill No. 459.

Rep. Starnes moved that Senate Bill No. 115 be passed on third and final consideration.

Rep. Copeland moved to amend as follows:

Amendment No. 1

Amend Senate Bill No. 115 by adding the following as a new section to be appropriately designated:

Section _____. (a) Any increase in expenditure requirements on a taxpayer resulting from the provisions of this act may be deducted from the state tax liability of such taxpayer. If the increase in expenditure requirements resulting from the provisions of this act exceeds the state tax liability of a taxpayer, then such taxpayer may carry forward such expenditures for not more than three (3) years.

(b) The supervision of the deductions authorized by this section shall be under the direction of the department of revenue, and such department shall have the authority and power to prescribe forms upon which taxpayers subject to an increase in expenditures resulting from the provisions of this act shall make reports of such facts and information as will enable the commissioner to ascertain the correctness of the amount reported and paid by such taxpayers.

Mr. Speaker Murray relinquished the Chair to Rep. DeBerry, Speaker Pro Tempore.

Rep. Burnett moved that Amendment No. 1 be tabled, which motion prevailed by the following vote:

Ayes.	69
Noes.	23
Present and not voting.	1

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Chiles, Collier, Crain, Cross, Davidson, Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Givens, Good, Hassell, Hawkins, Henry (Roane), Herron, Hillis, Hobbs, Holt, Huskey, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, Miller, Moody, Moore (Lawrence), Naifeh, Napier, Nuber, Odom, Phillips, Pinion, Pruitt,

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Purcell, Rhinehart, Ridgeway, Robinson (Hamilton), Robinson (Washington), Shirley, Stallings, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Webb, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Yelton, Mr. Speaker Murray -- 69.

Representatives voting no were: Callicott, Clark, Copeland, Curlee, Davis (Cocke), Gunnels, Harrill, Haun, Henry (Putnam), Holcomb, Hubbard, McAfee, McDaniel, Moore (Shelby), Niceley, Peroulas, Scruggs, Severance, Sipes, Stamps, Ussery, West, Wood -- 23.

Representatives present and not voting were: Coffey -- 1.

Rep. Rhinehart moved the previous question, which motion prevailed.

Thereupon, Rep. Starnes moved that Senate Bill No. 115 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	94
Noes.	3
Present and not voting.	1

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Crain, Cross, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Yelton, Mr. Speaker Murray -- 94.

Representatives voting no were: Copeland, Curlee, Wood -- 3.

Representatives present and not voting were: Moore (Shelby) -- 1.

A motion to reconsider was tabled.

House Bill No. 1150 -- Election Laws -- Revises election laws. Amends TCA, Title 2.

Rep. Dixon moved that House Bill No. 1150 be passed on third and final consideration.

Rep. Miller moved to amend as follows:

Amendment No. 1

Amend House Bill No. 1150 by deleting in its entirety all the language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 2-2-115(b), is amended by deleting subdivision (1) in its entirety, and by substituting instead the following language:

The state election coordinator shall prepare voter registration forms in accordance with the provisions of this section and shall provide for the printing of an ample quantity of such registration forms to be distributed under the provisions of this section.

Section 2-2-115(b), is further amended by deleting subdivision (5)(A), in its entirety, and by substituting instead the following language:

Any agreement made between the state election coordinator, or any county election commission as provided for in subdivision (4) of this section, shall provide for the furnishing by the coordinator of elections of an ample quantity of registration forms for distribution at any post office, postal substation, public library, public school, courthouse, city hall, or other appropriate places.

Section 2-2-115(b), is further amended by deleting subdivision (9) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 2-2-116, is amended by adding the following language as a new subsection (d):

(d) Counties which have adopted alternative electronic or microfilm registration systems, pursuant to §2-2-137, shall be exempt from the provisions of §§2-2-116(a) and 2-2-116(b).

Section 2-2-116, is further amended by deleting in its entirety the first sentence of subsection (c) and the language to be included on the Permanent Registration Record up through and including item 14, and by substituting instead the following language:

(c) The permanent registration record shall be substantially as follows, shall contain all the information required before being signed by the registrant, and shall be witnessed as indicated on the form.

"PERMANENT REGISTRATION RECORD

1. _____

Last Name First Name Middle Name Sex

2. Legal Residence _____

Number Street or Road Apt.

3. City _____ County _____

4. Mailing Address if different from Legal Residence _____

5. Social Security number, if any _____

6. Date and place of birth _____

7. Are you a citizen of the United States? _____

8. Where were you last registered to vote? _____

City _____ County _____ State _____

9. Have you been a resident of this state for a period of at least twenty (20) days? _____

10. Have you ever been convicted of a crime which is a felony in this state, by a court in this state, a court in another state, or a federal court? _____

11. If the answer to question 10 is "yes", list the crime, or crimes, for which you were convicted, and date, or dates, of conviction. _____

12. If the answer to question 10 is "yes", have you received a pardon or had your full rights of citizenship restored by a court for all crimes listed? _____

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Dixon moved that House Bill No. 1150, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 98

Noes 0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

A motion to reconsider was tabled.

House Bill No. 0926 -- Workers' Compensation -- Requires inclusion of doctor of chiropractic for selection of physicians and surgeons in certain circumstances. Amends TCA 50-6-204.

Rep. West moved that House Bill No. 926 be reset to the Calendar for last day of the 1989 session, which motion prevailed.

House Bill No. 0901 -- Criminal Offenses -- Authorizes wildlife resources officers to enforce certain laws committed on public waters. Amends TCA 39-2-101, 39-2-231, 232.

Rep. West moved that House Bill No. 901 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	3

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 95.

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Representatives voting no were: Crain, Moore (Shelby), Whitson -- 3.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from no to aye on House Bill No. 901 and have this statement entered in the Journal.

Rep. Floyd Crain

REGULAR CALENDAR, CONTINUED

*House Bill No. 0466 -- Pensions and Retirement Benefits -- Increases retirement allowance of retired members of general assembly. Amends TCA 8-36-209.

Rep. Rhinehart moved that House Bill No. 466 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	71
Noes	24
Present and not voting	2

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Cain, Collier, Crain, Cross, Curlee, Davidson, Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Good, Harrill, Hassell, Hillis, Hobbs, Holt, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Peroulas, Phillips, Pinion, Pruitt, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Sipes, Stallings, Starnes, Turner (Hamilton), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wood, Yelton, Mr. Speaker Murray -- 71.

Representatives voting no were: Byrd, Callicott, Chiles, Coffey, Davis (Cooke), Givens, Gunnels, Halteman, Haun, Hawkins, Henry (Putnam), Henry (Roane), Herron, Holcomb, Hubbard, Huskey, McAfee, McDaniel, Nuber, Odom, Purcell, Stamps, Turner, C. (Shelby), Wolfe -- 24.

Representatives present and not voting were: Clark, Shirley -- 2.

A motion to reconsider was tabled.

*House Bill No. 0468 -- Pensions and Retirement Benefits --
Reduces creditable service requirement for certain Group 1 members.
Amends TCA 8-36-201.

Rep. Rhinehart moved that House Bill No. 468 be passed on third and final consideration.

Rep. Rhinehart moved to amend as follows:

Amendment No. 1

Amend House Bill No. 468 by deleting the period (.) at the end of the amendatory language in Section 1 and by substituting in lieu thereof the following:

and that within ninety (90) days of July 1, 1989, such member irrevocably elects to contribute five percent (5%) of his earnable compensation in addition to the contributions required by Section 8-37-202.

On motion, Amendment No. 1 was adopted.

Thereupon, Rep. Rhinehart moved that House Bill No. 468, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	98
Noes.	1

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gale, Garrett, Givers, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Mittle, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Nicoley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

Representatives voting no were: Chiles -- 1.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

MR. SPEAKER: Pursuant to Rule No. 31, I wish to express a desire to change my original stand from no to aye on House Bill No. 468 and have this statement entered in the Journal.

Rep. John Chiles

REGULAR CALENDAR; CONTINUED

House Bill No. 1404 -- Agriculture -- Enacts "Tennessee Commodity Dealer and Warehouse Law"; "Tennessee Commodity Producer Indemnity Law". Amends TCA, Title 43, Ch. 27.

Rep. Stallings moved that House Bill No. 1404 be passed on third and final consideration.

Rep. Stallings moved to amend as follows:

Amendment No. 1

Amend House Bill No. 1404 by deleting Sections 2 through 22 in their entirety and by substituting instead the following:

SECTION 2.

(a) Sections 2 through 10 shall be known and may be cited as the "Tennessee Commodity Dealer and Warehouse Law".

(b) When used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Tennessee department of agriculture, or his designated representatives;

(2) "Department" means the Tennessee department of agriculture;

(3) "Commodity" means grain;

(4) "Grain" means corn, wheat, oats, rye, soybeans, rape seed, canola and grain sorghums;

(5) "Commodity dealer" means any person engaged in the business of buying commodities from producers thereof for resale or for milling or processing. A producer of commodities buying commodities for his own use as seed or feed shall

not be considered as being engaged in the business of buying commodities for resale or for milling or processing;

(6) "Incidental commodity dealer" means any commodities dealer who purchases commodities from producers and whose total purchases of commodities during any fiscal year do not exceed one hundred thousand dollars (\$100,000);

(7) "Producer" means the owner, tenant or operator of land in this state who has an interest in and receives all or any part of the proceeds from the sale of the commodities produced thereon;

(8) "Person" includes individuals, corporations, partnerships and all associations of two (2) or more persons having a joint or common interest;

(9) "Warehouse" or "commodities warehouse" means any building, structure, or other protected enclosure in this state used for the purpose of storing commodities for a consideration;

(10) "Stored commodities" means any commodities received in any commodities warehouse, located in this state, if such commodities are not purchased and beneficially owned by the commodities warehouseman;

(11) "Warehouseman" or "commodities warehouseman" means any person who owns, controls or manages a public commodities warehouse in which commodities are stored for compensation and is authorized to issue warehouse receipts and includes any grain warehouse licensed under the U.S. Warehouse Act that has entered into a cooperative agreement;

(12) "Board" means the governing body of the Tennessee Commodity Producer Indemnity Corporation;

(13) "Claimant" means:

(A) any producer or person, possessing warehouse receipts covering commodities owned or stored by the warehouseman;

(B) any person with written evidence of ownership, other than warehouse receipts,

disclosing a storage obligation of a commodity warehouseman, including scale tickets, settlement sheets and ledger cards;

(C) any person who has lent money to a commodity warehouseman and was to receive a warehouse receipt as security for that loan but the commodity dealer or warehouseman failed within twenty-one (21) days after receiving the loan monies and no warehouse receipt was issued;

(D) any person who has surrendered warehouse receipts as a part of a commodities sale transaction, the commodity warehouseman failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt did not get fully paid therefor; or

(E) any producer who possesses written evidence of the sale of commodities to a failed commodity dealer not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar commodities delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department in accordance with this act;

(14) "Cooperative agreement" means any agreement made by the department with a person, local unit of government, or state or federal agency as may be reasonable and proper to carry out this act;

(15) "Corporation" means the Tennessee Commodity Producer Indemnity Corporation;

(16) "Failure" means:

(A) an inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(B) a declaration of insolvency;

(C) a revocation of license and leaving of outstanding indebtedness to claimants;

(D) a failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a commodity dealer or warehouseman and a customer;

(E) a failure to apply for license renewal;

(F) a denial of license renewal; or

(G) a voluntary surrendering of a license.

(17) "Commodity assets" means all commodities owned or stored by a failed commodity dealer or warehouseman, including commodities in transit which were shipped by the failed commodity dealer or warehouseman or failed warehouseman and for which payment has not been received; proceeds from sale or commodities due or to become due; the equity (net of any secured financing directly associated therewith) in assets in commodity exchange commodities margin accounts; any monies due or to become due (net of any secured financing directly associated therewith) from any future contracts on any recognized commodity exchange; any other unencumbered funds or property or equity of the failed commodity dealer or warehouseman in funds or property wherever located which can be directly traced as being from the sale of commodities by the failed commodity dealer or warehouseman or failed warehouseman, provided that any such funds, property or equity in funds or property, shall not be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and further provided that the encumbrance is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or other unencumbered funds, property or equity in assets;

(18) "Program" means the Tennessee Commodity Producer Indemnity Program;

(19) "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended;

(20) "Valid claim" means a claim arising from a failure of a commodity dealer or warehouseman which occurs after the effective date of this act, and adjudicated valid by the board, net of all credits and offsets, and in accordance with Section 17; and

(21) "Warehouse receipt" means:

(A) a warehouse receipt issued under this act in accordance with the Uniform Commercial Code; or

(B) a warehouse receipt issued under the United States Warehouse Act.

SECTION 3. Any commodity warehouse licensed under the United States Warehouse Act shall be subject to the provisions of Parts I and II of this act. However, any federally licensed commodity warehouse that meets the minimum requirements of the federal act shall be in compliance with the requirements of Part I of this act. All public commodity warehouses licensed under the United States Warehouse Act shall file with the commissioner a copy of their current license and a copy of all subsequent licenses or renewals so as to always have a copy of a current license on file with the commissioner.

SECTION 4.

(a) The commissioner shall prescribe the form of all warehouse receipts, and no other character or form of warehouse receipt shall be issued except those so authorized.

(b) Receipts must be issued for all commodities stored in a warehouse. Receipts need not be issued against nonstorage commodities, but each warehouseman shall keep accurate records of the weights, kinds, and grades, if graded, of all lots of nonstorage commodities received into and delivered from his warehouse.

(c)

(1) No warehouse receipt shall be issued except on actual delivery of commodities into storage in the warehouse from which it purports to be issued, nor shall any receipt be issued for a greater quantity of commodities than was contained in the lot or parcel so received from storage, nor shall more than one (1) receipt be

issued for the same lot of commodities, except in cases where a receipt for a part of a lot is desired, and then the aggregate receipts for a particular lot shall cover that lot and no more.

(2) No warehouseman shall issue or aid the issuance of a receipt for commodities knowing that the commodities for which such receipt is issued and has not actually been received by such warehouseman or that the commodities are not under his actual control at the time of issuing such receipt.

SECTION 5.

(a) No person shall engage in business as a commodity dealer or warehouseman in the state of Tennessee without a license therefor issued by the department.

(b) Application for a license to engage in business as a commodities dealer or warehouseman shall be filed with the department and shall contain information and be in a form as prescribed by the department by rule lawfully promulgated.

(c) The application for a initial license may be filed at any time prior to beginning business as a commodity dealer or warehouseman. However, such license shall terminate ninety (90) days after the close of the commodity dealer or warehouseman's fiscal year.

(d) The application for a renewal of a license shall be filed with the department annually within ninety (90) days after the close of the commodity dealer or warehouseman's last completed fiscal year or within such further time, not exceeding sixty (60) days, as the department, upon application, may allow.

(e) For all commodity dealer or warehouseman licenses the application shall be accompanied by a financial statement setting forth information as prescribed by the commissioner by lawfully promulgated rule.

(f) The application for a license to operate as a commodity dealer or warehouseman as defined in this act, or a renewal thereof, shall be accompanied by a filing fee of one hundred and fifty dollars (\$150). The application for a license to operate as an incidental commodity dealer as defined in this act, or

a renewal thereof, shall be accompanied by a filing fee of fifty dollars (\$50.00).

(g) The license or renewal thereof issued by the department under this section shall be posted in the principal office of the licensee in this state. A certificate shall be posted in each location listed on a licensee's application where he engages in the business of buying or storing commodities. In the case of a licensee operating a truck or tractor trailer unit, the licensee is required to have a certificate that the license is in effect, and that a bond or certificate of deposit has been filed, carried in each truck or tractor trailer unit used in connection with the purchase of commodities from producers. Upon request of a licensee and payment of the fee therefor, the department shall issue to the licensee a certificate that a license has been issued or renewed and a bond filed as required by this act.

SECTION 6.

(a) Every person licensed as a commodity dealer or warehouseman shall have a surety bond and a fire and extended coverage insurance policy, or proof thereof, both of which shall be non-cancellable for the term of the license.

(b) The surety bond shall provide a reasonable level of protection for those persons storing commodities in the warehouse or selling commodities to a dealer in the event of bankruptcy, fraud, or other occurrence which would deprive the person storing or selling commodities from recovering its value. This surety bond shall be in an amount established by the commissioner by duly promulgated rules. These bonding requirements are subject to a twenty thousand dollar (\$20,000) minimum and a five hundred thousand dollar (\$500,000) maximum limit.

(c) The fire and extended coverage insurance policy shall be in an amount set by the commissioner by rule and regulation.

(d) The bond and insurance policy shall be for the benefit of the persons storing commodities with the warehouseman, and shall be conditioned to provide the protection herein described.

(e) The premiums on the bond or insurance shall be paid by the licensee.

(f) Any commodity dealer or warehouseman may file with the department, in lieu of a surety bond, a certificate of deposit or an irrevocable letter of credit payable to the Tennessee department of agriculture, commissioner as trustee. The principal amount of such certificate shall be the same as that required for a surety bond under this act and the interest thereon shall be made payable to the purchaser thereof.

(g) The surety bond or certificate of deposit in effect on the date of a warehouseman's license revocation, license suspension, cessation of operation or date of default as determined by the department shall be liable for and accrue liabilities not to exceed the principal of such surety bond or certificate of deposit.

(h) When the department determines that an applicant's or licensee's ability to pay producers for commodities purchased is in question, or when it determines that a commodity dealer or warehouseman does not meet the financial requirements of this act, it may require additional collateral security. Such collateral security may include but is not limited to irrevocable letters of credit, certificates of deposit, commercial surety bonds, and, on a negotiated basis, mortgages or deeds of trust on real property, personal or corporate guarantees or other guarantees. Failure to pose collateral security shall constitute grounds for suspension or revocation of a license issued under this act.

(i) Any commodity dealer or warehouseman who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for commodities purchased or stored by him may request the department to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty thousand dollars (\$20,000). The conditions under which such requests shall be granted shall be established by the commissioner in duly promulgated rules.

SECTION 7.

(a) The department shall examine or inspect each licensed commodity dealer or warehouseman at least once each calendar year. The department may inspect the premises used by any commodity dealer or warehouseman in the conduct of his business at any time and the books, accounts, records and papers of every such commodity dealer or warehouseman shall at

all times during business hours be subject to inspection by the department. Each commodity dealer or warehouseman may also be required to make such reports of his activities, obligations, and transactions as deemed necessary by the department to protect the producer as set forth in the rules and regulations.

(b) If a commodity dealer or warehouseman violates any of the provisions of this act, his license and certificate of license may be removed from his premises by any department employee charged with the enforcement of this act and returned to the department. Such removal shall constitute a suspension of the license and the licensee may request a hearing before the commissioner within ten (10) days in accordance with the Uniform Administrative Procedures Act.

(c) If the department finds that a commodity dealer is licensed as a commodities warehouse under the United States Warehouse Act and does not satisfy the requirements of Part 2 of this act, the commissioner shall suspend or revoke such license until such time as the commodities warehouse complies with the Tennessee Commodity Producer Indemnity Act.

(d) If any court of competent jurisdiction issues any order restraining, overturning or modifying any order of the department which suspends or revokes a commodity dealer or warehouseman's license, the department, its officers, employees and agents and the Tennessee Commodity Producer Indemnity Corporation, its directors, officers and agents shall be held harmless from any liabilities or financial obligations arising out of the operations of such commodity dealer or warehouseman while operating under such court order.

SECTION 8.

(a) If it shall be discovered that any commodity dealer or warehouse is insolvent, or that its continuance in business will seriously jeopardize the interest of its creditors or commodities depositors, it shall be the duty of the commissioner to close such dealer or warehouse and to take charge of all the property and effects thereof; and to notify the surety. Upon taking charge of any such dealer or warehouse the commissioner shall, as soon as practicable, ascertain by a thorough examination into its affairs, its actual financial condition, and whenever the commissioner shall become satisfied that such commodity warehouseman or dealer cannot resume

business or liquidate its indebtedness to the satisfaction of its creditors, the commissioner shall report the fact of its insolvency to the attorney general, who shall immediately upon receipt of such notice institute proper proceedings in the proper court for the purpose of having a receiver appointed.

(b) If a commodity dealer or warehouseman fails or refuses to make payment for or deliver to a producer for commodities when requested, the producer shall notify the commissioner in writing of such failure or refusal within one hundred sixty (160) days of the date of sale or the date of delivery of such commodities to the dealer or warehouseman, whichever is later, but in case of deferred pricing, delayed pricing, priced later, or similar contractual arrangements, no more than two hundred seventy (270) days after the date of delivery. The commissioner, upon receiving such notice, shall take whatever action is necessary. The producer furnishing such written notice within the prescribed length of time is entitled to the benefits of the commodity dealer or warehouseman's bond. However, if a producer fails to furnish written notice to the commissioner within the prescribed time, then such producer is not entitled to any benefits under the commodity dealer or warehouseman's bond and the Tennessee Commodity Producers Indemnity Law, Part II of this act. Commodity dealer liability under price later contracts, open price contracts, deferred price contracts, or similar agreements shall accrue under the bond in effect at the date of default as determined by the commissioner.

(c) When the commissioner has determined that a commodity dealer has defaulted payment to producers for commodities which he has purchased from them, or warehouseman failed to deliver value for commodities stored the commissioner shall determine through appropriate legal procedures the producers and the amount of defaulted payment and as trustee of the bond shall immediately after such determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

SECTION 9.

(a) Failure of a commodity dealer or warehouseman to file a bond or certificate of deposit and to keep such bond or certificate of deposit in force or to maintain assets adequate to assure payment to producers for commodities purchased from or stored for them shall be grounds for the suspension or revocation of a license issued under this act.

(b) Any person who engages in business as a commodity dealer or warehouseman without securing a license or who does not have a valid license or is in violation of this act or the rules and regulations promulgated thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the commissioner or his duly authorized agent in performance of his duty in connection with this act or its rules and regulations or any commodity dealer or warehouseman, or any officer, agent or employee of a commodity dealer or warehouseman, who refuses to permit inspection of his premises, books, accounts, or records as provided in this act shall be guilty of a misdemeanor. In case of a continuing violation or violations, each day that each violation occurs constitutes a separate and distinct offense.

(c) Any commodity dealer or warehouseman, or officer, agent, or employee of a commodity dealer or warehouseman, who withholds records, keeps or files false records or who inaccurately alters his records or presents to the department any materially false records is guilty of a felony and upon conviction shall be punished for such offense by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000) or by imprisonment in any state penitentiary for not less than two (2) years nor more than five (5) years, or both.

(d) It shall be the duty of each district attorney general to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in the appropriate court without delay. Before the commissioner reports a violation for prosecution he may give the commodity dealer or warehouseman, or the officer, agent or employee of the commodity dealer or warehouseman, an opportunity to present his views at a hearing.

(e) The commissioner may file a complaint and apply for, and the appropriate court may grant, a temporary restraining order or preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rules and regulations

promulgated under the act notwithstanding the existence of other judicial remedies. Any such injunction may be entered without notice and without bond.

(f) The commissioner may prohibit a commodity dealer or warehouseman from disposing of any commodities owned, in whole or in part, or held or in his or her possession whether owned in whole or in part, or may prohibit anyone from removing any commodities in which the commodity dealer or warehouseman or producers from which he or she has purchased commodities have an interest; and shall have authority for the disposition of such commodities to carry out the intent of this act.

SECTION 10. The commissioner may regulate the use of price later contracts by the promulgation of any rule or regulation he may deem necessary.

SECTION 11.

(a) Sections 11 through 19 shall be known and may be cited as the "Tennessee Commodity Producer Indemnity Law".

(b) It is the purpose of this part to promote the state's welfare by improving the economic stability of agriculture. It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain be permitted, by referendum, to levy upon themselves an assessment of one cent (1¢) per bushel on soybeans and one-half cent (1/2¢) per bushel on all other grain and provide for the collection of the same for the purpose of financing or contributing to the financing of the Tennessee Grain Indemnity Fund, which is hereby created, in order to protect commodity producers in the event of the financial failure of a commodity dealer or warehouseman and to ensure the existence of adequate funds so the commodity producers and claimants may be compensated for losses occasioned by the failure of a commodity dealer or warehouseman.

SECTION 12.

(a) Any qualified producer organization may make application to the commissioner requesting a referendum of producers on forms prescribed by the commissioner for the purpose of determining whether assessment of the specified amount can be levied, collected and disbursed under the provisions of this part.

(b) Within thirty (30) days of receipt of an application requesting a referendum, the commissioner shall make a determination of whether or not the petitioner is a qualified producer organization and upon such determination shall set a date for the referendum, which shall not be more than sixty (60) days after receipt of the application, and shall publish by any reasonable means, the date of the referendum, the polling places and the hours they will be open, the amount of the proposed assessment, and the date the assessment shall begin, if adopted.

(c)

(1) Any referendum held under the provisions of this part shall be conducted statewide, under the control and direction of the commissioner. The polling place in each county shall be the offices of the University of Tennessee agriculture extension service. All ballots shall be provided at the polling place. All voting shall be by secret ballot.

(2) Each person seeking to vote in the referendum shall be required to file an affidavit stating that he is a producer as defined in this act. Upon signing an affidavit, such person shall be eligible to vote. The question to be decided in the referendum shall be in the following form:

Shall the producers of _____ assess themselves at the rate of _____ cents per _____ of _____ sold, and use the funds so collected by the department of agriculture and paid over to the Tennessee Commodity Producer Indemnity Corporation to finance the Tennessee Grain Indemnity Fund in order to protect commodity producers in the event of the financial failure of a commodity dealer or warehouseman.

The affirmative vote of the majority of the number of votes cast adopt the proposed assessment.

(3) Within ten (10) days after the referendum the commissioner shall canvass the votes and publicly announce the result of the referendum.

SECTION 13.

(a) If a referendum is carried in the affirmative and an assessment is to be levied as provided in the Act there is hereby created the Tennessee Commodity Producer Indemnity Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in the board of directors composed of the commissioner of agriculture, who shall serve as the president; chief fiscal officer of the department of agriculture, who shall serve as the secretary; a designee of the state treasurer, who shall serve as the treasurer; the commissioner of the department of commerce and insurance, and the comptroller of the treasury. Three (3) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of three (3) members shall be necessary for any action taken by the board at a meeting, except that lesser number may adjourn a meeting from time to time. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(b) The corporation shall have the following powers incidental or necessary to the discharge thereof in corporate form:

1) To have perpetual succession by its corporate name as a corporate body;

2) To adopt, alter and repeal by-laws, not inconsistent with the provisions of this act, for regulation and conduct of its affairs and business;

3) To adopt and make use of a corporate seal and to alter same at its pleasure;

4) To avail itself of the use of information, services, facilities, and employees of the state of Tennessee in carrying out the provisions of this act;

5) To receive funds assessed by the department under this part;

6) To administer the Tennessee Grain Indemnity Fund by investing the funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

7) To receive funds from the department for deposit into the Tennessee Grain Indemnity Fund;

8) Upon the request of that commissioner, to make payment from the Tennessee Grain Indemnity Fund to the department when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of Section 19; and

9) To have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(c) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties.

SECTION 14.

(a) Every commodity dealer or warehouseman required to be licensed by the department shall be subject to this part.

(b) The department shall be empowered to enter into a cooperative agreement with any commodity warehouse licensed under the United States Warehouse Act or with any federal agency to accomplish the purposes of this part.

SECTION 15.

(a) Upon an affirmative vote in the referendum and the establishment of the Tennessee Commodity Producer Indemnity Corporation, the commissioner shall notify forthwith by certified mail all persons in this state engaged in the business of purchasing commodities from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the commodities. The assessment so deducted shall, on or before the twentieth day of the month following the end of the month in which such commodities are sold to the purchaser, be remitted by the purchaser to the Tennessee Grain Indemnity Fund. The books and records of all purchasers of commodities, which shall clearly indicate the producer and the amount of the assessment, shall be at all times open for inspection by the commissioner or his

agents during regular business hours. The commissioner or his agents may take such steps as are reasonably necessary to verify the accuracy of books and records of purchasers of commodities.

(b) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasury of the Tennessee Commodity Producer Indemnity Corporation a refund of the assessment collected from the producer. Requests for refunds shall be made within ninety (90) days of the date the amount was deducted. By voluntarily submitting to a refund the producer foregoes any protection or compensation provided by the Tennessee Commodity Producer Indemnity Corporation.

(c)

(1) Producers who have requested and received a refund of an assessment pursuant to this act may re-enter the program by petitioning the Tennessee Commodity Producer Indemnity Corporation board for approval of re-entry into the program and immediately upon mailing a petition for re-entry to the offices of the department, placing an amount equal to all previous assessment refunds plus interest to that producer in an escrow account in a local bank, such previous assessments and the terms and conditions of the escrow account to be determined by the department of agriculture.

(2) The board shall review the producer's petition for re-entry and, if approved, the producer shall repay into the appropriate indemnity fund all previous assessment refunds as determined by the department. Producers re-entering the program pursuant to this section will be protected by the program ninety (90) days from the time all previous assessment refunds were placed in escrow.

(3) No producer will be granted protection of the grain producer indemnity program who has not been a participant in the program prior to meeting the criteria of a claimant.

(d) Commodity producers from outside Tennessee shall not be subject to the assessment if they certify to the commodity dealer or warehouseman that they are out-of-state

producers. The department shall establish the form to be completed, signed and given to the commodity dealer or warehouseman in order to obtain the exemption. A copy of such form shall be kept as a part of the books and records by the commodity dealer or warehouseman and in addition a copy of such form shall be supplied to the department. A commodity producer from outside of Tennessee may be subject to the assessment and therefore awarded all the protection hereof if he so chooses and meets the requirements of this act. The Tennessee Commodity Producer Indemnity Corporation may enter into a reciprocal agreement with a contiguous state having a similar program.

(e) The assessments by the department pursuant to this act are in addition to any other fees or assessments required by law.

SECTION 16. The assessment shall continue on grain until the Tennessee Grain Indemnity Fund is more than three million dollars (\$3,000,000). If and when the fund is more than three million dollars (\$3,000,000), the commissioner shall temporarily suspend the assessment. At such time the amount in the fund drops below three million dollars (\$3,000,000), the commissioner may reinstitute the assessment, however, the assessment shall not exceed the assessment rate established by this act. Adjustments to the assessment can be made only once annually. At such time the fund has utilized funds from the Revenue Fluctuation Reserve Fund in accordance with Section 18, and if in the opinion of the commissioner the assessment will not pay the state back, he may institute a mandatory assessment. This mandatory assessment shall be in effect only for as long as it takes to repay the Revenue Fluctuation Reserve Fund and shall not be applicable to producers who were ineligible to receive benefits from the Tennessee Grain Indemnity Fund at the time of the claim which resulted in the obligation to the Revenue Fluctuation Reserve Fund.

SECTION 17. All assessments collected by the department pursuant to this part shall be held by the corporation in trust in the Tennessee Grain Indemnity Fund for carrying out the purposes of this act. These funds may be invested and re-invested at the discretion of the corporation, and the interest from these investments shall be deposited to the credit of the fund and shall be available for the same purposes as all other money deposited in the Tennessee Grain Indemnity Fund. The money in the Tennessee Grain Indemnity Fund shall not be available for any purpose other than the payment of claims and for the administration of this act.

SECTION 18. In the event that the amount in the Tennessee Grain Indemnity Fund is insufficient to pay the approved claims from that fund, the board with the approval of the commissioner of finance and administration and the appropriate standing committees of the General Assembly shall have access to the Revenue Fluctuation Reserve Fund for an amount sufficient to satisfy the unpaid claims. This access shall not exceed a maximum amount of one and a half million dollars (\$1,500,000). The state shall be reimbursed, with interest, at the rate paid on ninety (90) day U.S. treasury bills, for any amounts paid under this section upon replenishment of the fund from the assessments on the appropriate commodity made pursuant to this act.

SECTION 19. Within ninety (90) days of the board's approval of a valid claim, the department shall, in accordance with the provisions of this section, compensate from the Tennessee Grain Indemnity Fund any claimant who has incurred a financial loss due to a failure of a commodity dealer or warehouseman.

(1) Any claimant who has incurred a financial loss due to a failure of a commodity dealer shall be entitled to be compensated for eighty-five percent (85%) of a valid claim, to a maximum of one hundred thousand dollars (\$100,000), with monies from the Tennessee Grain Indemnity Fund. To the maximum extent that funds are or may be made available for such purpose, the remaining balance of such claims shall be paid by the department from the assets and other security of the failed dealer.

(2) Any claimant who has incurred a financial loss due to the failure of a warehouseman and who has surrendered a warehouse receipt for payment or holds a warehouse receipt and cannot receive value shall be compensated for one hundred percent (100%) of the claim.

SECTION 20. The commissioner, when he has determined that a commodity dealer or warehouseman has defaulted payment or failed, shall have the following duties under this act in addition to any other duties granted to him by law:

(1) To present claims to the board for their determination as valid and the amount of such claims to be paid to claimants for financial losses which were incurred due to the failure of a commodity dealer or warehouseman;

(2) To request the transfer of monies from the Tennessee Grain Indemnity Fund when necessary for the purpose of compensation claimants in accordance with the provisions of Section 19;

(3) To hold in trust any assets of a failed commodity dealer or warehouseman for the purposes of repayment of the Tennessee Grain Indemnity Fund monies used to pay claimants; any repayment to the appropriate indemnity fund shall not exceed the principal amount paid to claimants; and

(4) In the event that the amount in the Tennessee Grain Indemnity Fund is insufficient to pay all valid claims in accordance with Section 19, to pay valid claims based on a pro rata share of available funds.

SECTION 21. The department shall have the following duties under this act:

(1) To collect and deposit all fees and assessments authorized under this part into the Tennessee Grain Indemnity Fund for investment by the corporation;

(2) To transfer, at the discretion of the commissioner, any monies from the department to the Tennessee Grain Indemnity Fund for investment;

(3) To subrogate all the rights of the claimant. The claimant shall assign all his rights, title and interest in any judgment to the department;

(4) The department shall initiate any action it may deem necessary to compel the commodity dealer or warehouseman against whom an awarded claim arose to repay the Tennessee Grain Indemnity Fund; and

(5) To initiate any action it may deem necessary to compel the claimant whose claim arose due to a failure to participate in any legal proceeding in relation to such claim.

SECTION 22. In accordance with the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, the commissioner shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of this act.

AND FURTHER AMEND by adding the following new sections:

SECTION 23. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 24. This act shall take effect on July 1, 1989, the public welfare requiring it.

Rep. Stallings moved to amend as follows:

Amendment No. 1 to Amendment No. 1

AMEND House Bill No. 1404 by deleting from the second sentence of subsection (a) of SECTION 13 the words "a designee of the state treasurer" and substituting instead the words "the state treasurer or his designee".

AND FURTHER AMEND by deleting from the second sentence of subsection (a) of SECTION 13 the words "Comptroller of the Treasury" and substituting instead the words "comptroller of the treasury or his designee".

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

Thereupon, Rep. Stallings moved that Amendment No. 1, as amended, be adopted, which motion prevailed.

Thereupon, Rep. Stallings moved that House Bill No. 1404, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	93
Noes	2
Present and not voting	3

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Callicott, Chiles, Clark, Coffey, Collier, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon,

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Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moore (Lawrence), Moore (Shelby), Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 93.

Representatives voting no were: Naifeh, Pinion -- 2.

Representatives present and not voting were: Cain, Moody, Turner, C. (Shelby) -- 3.

A motion to reconsider was tabled.

House Bill No. 0857 -- Hospitals and Health Care Facilities --
Increases membership of board for licensing health care facilities.
Amends TCA 68-11-203.

Further consideration of House Bill No. 857, previously considered on April 13, 1989, at which time it was reset to the Calendar for April 17, 1989.

On motion, House Bill No. 857 was made to conform with Senate Bill No. 373.

On motion, Senate Bill No. 373, on same subject, was substituted for House Bill No. 857.

Rep. Dixon moved that Senate Bill No. 373 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	98
Noes.	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes,

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Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 98.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE

April 17, 1989

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 426 and 588; passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

*Senate Bill No. 0426 -- Workers' Compensation -- Allows certain governmental entities to participate in Second Injury Fund. Amends TCA 29-20-401.

*Senate Bill No. 0588 -- Children -- Permits minors to make autologous blood donations with parent's consent. Amends TCA 68-32-101.

CONSENT CALENDAR

*House Bill No. 0093 -- Taxes, Sales -- Exempts hunting fees in certain counties from the amusement tax. Amends TCA 67-6-330.

House Bill No. 0663 -- Workers' Compensation -- Allows certain governmental entities to participate in Second Injury Fund. Amends TCA 29-20-401.

On motion, House Bill No. 663 was made to conform with Senate Bill No. 426.

On motion, Senate Bill No. 426 was substituted for House Bill No. 663.

House Bill No. 1151 -- Municipal Government -- Permits mayor to appoint a designee to boards to which mayor is not popularly elected. Amends TCA 6-54-112.

On motion, House Bill No. 1151 was made to conform with Senate Bill No. 865.

On motion, Senate Bill No. 865 was substituted for House Bill No. 1151.

*House Bill No. 1202 -- Statutes -- Corrects reference to "description services" to read "decryption services". Amends TCA 65-25-202, 205.

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On motion, House Bill No. 1202 was made to conform with Senate Bill No. 1353.

On motion, Senate Bill No. 1353 was substituted for House Bill No. 1202.

House Bill No. 1315 -- Children -- Permits minors to make autologous blood donations with parent's consent. Amends TCA 68-32-101.

On motion, House Bill No. 1315 was made to conform with Senate Bill No. 588.

On motion, Senate Bill No. 588 was substituted for House Bill No. 1315.

***House Bill No. 1089 -- Auctions and Auctioneers --** Permits auctioneer to temporarily retire license. Amends TCA 62-19-112.

On motion, House Bill No. 1089 was made to conform with Senate Bill No. 1325.

On motion, Senate Bill No. 1325 was substituted for House Bill No. 1089.

House Bill No. 0463 -- Pensions and Retirement Benefits -- Authorizes the Melton Hill Regional Industrial Development Association to participate in TCRS under certain circumstances. Amends TCA, Title 8, Ch. 35, Pt. 2.

On motion, House Bill No. 463 was made to conform with Senate Bill No. 239.

On motion, Senate Bill No. 239 was substituted for House Bill No. 463.

House Bill No. 0447 -- Boards and Commissions -- Permits governor to reappoint chairman of the Tennessee film, entertainment and music commission and its advisory council. Amends TCA 4-3-5004.

On motion, House Bill No. 447 was made to conform with Senate Bill No. 275.

On motion, Senate Bill No. 275 was substituted for House Bill No. 447.

House Bill No. 1387 -- Budget Procedures -- Exempts Fentress County from County Budget Law of 1990. Amends TCA, Title 5, Ch. 22.

On motion, House Bill No. 1387 was made to conform with Senate Bill No. 1234.

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On motion, **Senate Bill No. 1234** was substituted for House Bill No. 1387.

***House Resolution No. 0009** -- General Assembly, Review Or Ratification of Rules -- Approves amendments and revisions to Tennessee Rules of Civil Procedure promulgated by Supreme Court.

House Bill No. 0993 -- Correctional Programs -- Gives court authority to grant furloughs if a jail or workhouse does not have a furlough program. Amends TCA, Title 40, Ch. 35.

House Bill No. 0995 -- Correctional Programs -- Gives court the authority to place an inmate on work release if the jail or workhouse does not have work release program. Amends TCA, Title 40, Ch. 35.

House Joint Resolution No. 0253 -- Memorials, Professional Achievement -- Honors LaFollette Fire Chief Wayne Gregg, new chairman of East Tennessee Regional Council of Fire Chiefs.

House Joint Resolution No. 0254 -- Memorials, Sports -- Honors LaFollette Middle School basketball team on winning East Tennessee State basketball tournament.

House Joint Resolution No. 0255 -- Memorials, Public Service -- Honors Luttrell Elementary and Tennessee Luttrell Lime Company.

House Joint Resolution No. 0256 -- Memorials, Public Service -- Honors Suzanne M. Griffith on her outstanding service with Bartlett Area Chamber of Commerce.

House Joint Resolution No. 0257 -- Memorials, Public Service -- Honors James A. Worthington, Jr. for service with Tennessee Real Estate Commission.

House Joint Resolution No. 0258 -- Memorials, Sports -- Honors Coach Steve Patterson and Gibson County High School girls' basketball team.

House Bill No. 0699 -- Shelby County -- Increases fees on actions in all courts. Amends Chapter 275, Private Acts of 1970, as amended.

House Bill No. 1486 -- Jackson County -- Eliminates requirement of countersignature on warrant for disbursement of highway funds. Amends Chapter 111, Private Acts of 1951, as amended.

OBJECTION -- CONSENT CALENDAR

Objection(s) was/were filed to the following on the Consent Calendar:

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House Bill No. 93 was objected to by Reps. Burnett, Scruggs, Bragg, Chiles, McAfee, Duer, Miller, Cross, Armstrong, Bittle, Robinson (Davidson), Ellis, Naifeh, Webb, Peroulas and DeBerry.

House Bill No. 993 was objected to by Rep. Turner (Hamilton).

House Bill No. 995 was objected to by Rep. Turner (Hamilton).

Under the rules, House Bill(s) No(s). 93, 993 and 995 was/were placed at the foot of the calendar for Wednesday, April 19, 1989.

Rep. Kisber moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, and that all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes	97
Noes	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callcott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Cuplee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton -- 97.

A motion to reconsider was tabled.

HOUSE ACTION ON SENATE AMENDMENTS

House Bill No. 0620 -- Metropolitan Government -- Expands definition of police department to authorize designated entity to possess abandoned motor vehicles. Amends TCA, Title 55, Ch. 16.

Senate Amendment No. 1

Amend House Bill No. 620 by inserting after the words "any county" in the first line of the amendatory language of Section 1

of the bill as printed, the words and figures as follow:

with a population of four hundred thousand (400,000) or more, according to the 1980 federal census or any subsequent federal census,

Rep. Purcell moved that the House concur in Senate Amendment(s) No(s). 1, which motion prevailed by the following vote:

Ayes	97
Noes	0

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gaia, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kieber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrance), Nafteh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 97.

A motion to reconsider was tabled.

UNFINISHED BUSINESS

NOTICE TO ACT ON SENATE AMENDMENTS

Pursuant to Rule No. 59, the sponsor(s) gave notice of intent to consider the following measure(s) from the Senate on Wednesday, April 19, 1989:

House Bill No. 193: Rep. Scruggs.

House Bill No. 625: Rep. Nafteh.

House Bill No. 669: Rep. Bivens.

House Bill No. 1192: Rep. West.

Senate Bill No. 73: Rep. C. Turner (Shelby).

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RULES SUSPENDED

Rep. Ridgeway moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 282 out of order, which motion prevailed.

House Joint Resolution No. 0282 -- Memorials, Public Service -- Honors LaRenda Scarbrough on her tenure as executive director of Carroll County Chamber of Commerce. by *Ridgeway, *Herron.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Ridgeway, the resolution was adopted.

A motion to reconsider was tabled.

SPONSORS ADDED

Without objection, the rules were suspended to allow the following members to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 256: Rep(s). Kernell added as prime sponsor(s).

House Bill No. 355: Rep(s). Clark added as prime sponsor(s).

House Bill No. 459: Rep(s). Kernell added as prime sponsor(s).

House Bill No. 1405: Rep(s). West added as prime sponsor(s).

House Joint Resolution No. 173: Rep(s). Good added as prime sponsor(s).

SPONSORS REMOVED

On motion, Rep. Halteman was removed as sponsor of House Bill No. 1405.

On motion, Rep. Hubbard was removed as sponsor of House Bill No. 1434.

INTRODUCTION OF RESOLUTIONS

House Resolution No. 0022 -- Memorials, Recognition and Thanks -- Honors Calvin Stewart Wright and Wright's Country Cuisine on being awarded the Governor's Committee on Employment of the Handicapped's Small Employer of the Year Award. by *Yelton.

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The Speaker referred House Resolution No. 22 to the Calendar and Rules Committee.

House Joint Resolution No. 0259 -- Memorials, Personal Occasion -- Congratulates Pauline Shields Walker on 85th birthday. by *Davis R E.

The Speaker referred House Joint Resolution No. 259 to the Calendar and Rules Committee.

House Joint Resolution No. 0260 -- Memorials, Public Service -- Honors Miss Florence Slavin for 40 years of service to Tennessee. by *Ellis.

The Speaker referred House Joint Resolution No. 260 to the Calendar and Rules Committee.

House Joint Resolution No. 0261 -- Memorials, Sports -- Honors Monterey High School boys basketball team on capturing Region 3A championship. by *Henry Dwight.

The Speaker referred House Joint Resolution No. 261 to the Calendar and Rules Committee.

House Joint Resolution No. 0262 -- Memorials, Personal Occasion -- Honors Leonard and Lucille Barnes on 50th wedding anniversary. by *Jones R.

The Speaker referred House Joint Resolution No. 262 to the Calendar and Rules Committee.

House Joint Resolution No. 0263 -- Naming and Designating -- Designates new National Guard Armory in Dyersburg "First Lieutenant James A. Gardner National Guard Armory". by *Holt.

The Speaker referred House Joint Resolution No. 263 to the State and Local Government Committee.

SENATE JOINT RESOLUTIONS (Congratulatory and Memorializing)

Senate Joint Resolution No. 0127 -- General Assembly, Proclamations -- Proclaims November 11-17, 1989 as "Week of Special Observance of Vietnam Veterans".

The Speaker referred Senate Joint Resolution No. 127 to the Calendar and Rules Committee.

Senate Joint Resolution No. 0192 -- Memorials, Recognition and Thanks -- Honors Dr. John Prados for his many contributions to the University of Tennessee.

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The Speaker referred Senate Joint Resolution No. 192 to the Calendar and Rules Committee.

INTRODUCTION OF BILLS

House Bill No. 1494 -- Historical Sites -- Creates advisory council on Cordell Hull birthplace. by *Winningham.

Passed first consideration.

House Bill No. 1495 -- County Boundaries -- Revises boundary between Putnam and Overton counties. Same as HB 1484. by *Henry Dwight, *Burnett.

Passed first consideration.

SENATE BILLS ON FIRST CONSIDERATION

Senate Bill No. 0043 -- Appropriations -- Makes appropriation and directs replanning of football field and stadium.

Held on the Clerk's desk pending third consideration of companion House Bill No. 48.

Senate Bill No. 0112 -- Motor Vehicles, Titling and Registration -- Creates license plate for U.S. Reserve Forces. Amends TCA, Title 55, Ch. 4.

Held on the Clerk's desk pending third consideration of companion House Bill No. 607.

Senate Bill No. 0379 -- Medicare and Medicaid -- Provides certain unlimited medical assistance for certain medicaid infants. Directs department of human services to reimplement presumptive eligibility for such infants under certain circumstances. Amends TCA, Title 71.

Held on the Clerk's desk pending third consideration of companion House Bill No. 817.

Senate Bill No. 0578 -- Hospitals and Health Care Facilities -- Removes certain ambulatory surgical treatment facilities from jurisdiction of health facilities commission. Amends TCA, Title 68, Ch. 11, Pt. 1.

Held on the Clerk's desk pending third consideration of companion House Bill No. 1313.

Senate Bill No. 0830 -- Human Rights -- Makes affirmative action remedies for discrimination available in chancery court action. Amends TCA 4-21-311.

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On motion of Rep. Coffey, the resolution was adopted.

A motion to reconsider was tabled.

RULES SUSPENDED

Rep. Coffey moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 276 out of order, which motion prevailed.

House Joint Resolution No. 0276 -- Memorials, Sports -- Congratulates Oak Ridge High School boys' basketball team on outstanding season. by *Coffey.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Coffey, the resolution was adopted.

A motion to reconsider was tabled.

REGULAR CALENDAR

House Bill No. 0683 -- Notary Public -- Allows an elected official to become a notary public by submitting application to the county legislative body of his county of residence or business location. Amends TCA, Title 8, Ch. 16.

Rep. Ussery moved that House Bill No. 683 be passed on third and final consideration.

Rep. Miller moved to amend as follows:

Amendment No. 1

Amend House Bill No. 683 by deleting Section 1 and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-16-101, is amended by designating the current language as subsection "(a)" and by adding the following new language, to be designated as subsection "(b)":

(b) Nothing contained within the provisions of Tennessee Code Annotated, Section 5-5-102(c)(2), or any other law, shall be construed to prohibit a member of a county legislative body from also serving as a notary public provided such member complies with the requirements established within this part.

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HOUSE BILLS ON SECOND CONSIDERATION

House Bill No. 1487 -- Blount County -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

House Bill No. 1488 -- Lincoln County -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

House Bill No. 1489 -- Roane County -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

House Bill No. 1490 -- Blount County -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

House Bill No. 1491 -- Education -- Passed second consideration and referred to the Education Committee.

House Bill No. 1492 -- Milan -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

House Bill No. 1493 -- Lexington -- Passed second consideration and held on Clerk's desk pending approval by local delegation.

SIGNED

April 17, 1989

The Speaker announced that he had signed the following: Senate Bill(s) No(s). 6, 21, 85, 120, 202, 224, 288, 298, 329, 372, 427, 439, 443, 488, 518, 530, 724, 772, 863, 884, 1066, 1067, 1159, 1191, 1232, 1378 and 1457; and Senate Joint Resolution(s) No(s). 177, 178, 186, 187, 190 and 218.

ENROLLED BILLS

April 17, 1989

MR. SPEAKER: Your Chief Engraving Clerk begs leave to report that we have carefully compared House Bill(s) No(s). 99, 269, 271, 277, 362, 417, 469, 485, 511, 545, 597, 653, 773, 774, 932, 978, 988, 1073, 1476, 1477, 1481 and 1482; and House Joint Resolution(s) No(s). 209, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225 and 242; and find same correctly enrolled and ready for the signatures of the Speakers.

BETTY KAY FRANCIS,
Chief Engraving Clerk.

MONDAY, APRIL 17, 1989 -- THIRTY-FOURTH LEGISLATIVE DAY

SIGNED
April 17, 1989

The Speaker announced that he had signed the following: House Bill(s) No(s). 99, 269, 271, 277, 362, 417, 469, 485, 511, 545, 597, 653, 773, 774, 932, 978, 988, 1073, 1476, 1477, 1481 and 1482; and House Joint Resolution(s) No(s). 209, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225 and 242.

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 273; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

ENGROSSED BILLS
April 17, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 256 and 683; and House Joint Resolution(s) No(s). 275 and 276; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,
Chief Engrossing Clerk.

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 640; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, House Joint Resolution No. 244; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MONDAY, APRIL 17, 1989 -- THIRTY-FOURTH LEGISLATIVE DAY

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, Senate Bill No. 955. The Senate nonconcurred in House Amendment(s) No(s). 1.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 17, 229, 233, 235, 236, 237, 238, 239, 275 and 276; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

MESSAGE FROM THE SENATE
April 17, 1989

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 96, 612, 1353 and 1456; substituted for Senate Bill(s) on same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

ENGROSSED BILLS
April 17, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 466, 468, 699, 901, 1150 and 1486; and House Joint Resolution(s) No(s). 253, 254, 255, 256, 257, 258 and 282; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,
Chief Engrossing Clerk.

ENGROSSED BILLS
April 17, 1989

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bill(s) No(s). 1404; and find same correctly engrossed and ready for transmission to the Senate.

BETTY KAY FRANCIS,
Chief Engrossing Clerk.

MONDAY, APRIL 17, 1989 -- THIRTY-FOURTH LEGISLATIVE DAY

LOCAL BILLS TRANSMITTED TO CALENDAR AND RULES
April 17, 1989

In accordance with Rule No. 48, the following local bill(s), having received authorization for passage by the local legislative delegation, was/were transmitted to the Calendar and Rules Committee: House Bill(s) No(s). 1487, 1488, 1489, 1490, 1492 and 1493.

REPORT OF COMMITTEE ON CALENDAR AND RULES
CONSENT CALENDAR
April 17, 1989

MR. SPEAKER: The officers of your Committee on Calendar and Rules beg leave to report that we have met and set the following bill(s) and/or resolution(s) on the Consent Calendar for Wednesday, April 19, 1989: House Resolution(s) No(s). 22; House Joint Resolution(s) No(s). 259, 260, 261 and 262; and House Bill(s) No(s). 1437, 1488, 1489, 1490, 1492 and 1493; and Senate Joint Resolution(s) No(s). 127 and 192.

PHILLIPS, Chairman.

ROLL CALL

The roll call was taken with the following results:

Present 99.

Representatives present were: Anderson, Armstrong, Bell, Bittle, Bivens, Bragg, Buck, Burnett, Byrd, Cain, Callicott, Chiles, Clark, Coffey, Collier, Copeland, Crain, Cross, Curlee, Davidson, Davis (Cooke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dixon, Duer, Ellis, Gail, Garrett, Givens, Good, Gunnels, Halteman, Harrill, Hassell, Haun, Hawkins, Head, Henry (Putnam), Henry (Roane), Herron, Hillis, Hobbs, Holcomb, Holt, Hubbard, Huskey, Jackson, Jones, R. (Shelby), Jones, U. (Shelby), Kent, Kernell, King, Kisber, Love, McAfee, McDaniel, Miller, Moody, Moore (Lawrence), Moore (Shelby), Naifeh, Napier, Niceley, Nuber, Odom, Peroulas, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Sipes, Stallings, Stamps, Starnes, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Yelton, Mr. Speaker Murray -- 99.

On motion of Rep. Naifeh, the House adjourned until 2:00 p.m., Wednesday, April 19, 1989.